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STATUTORY INSTRUMENTS

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**2018 No. 56**

The Scotland Act 2016 and Onshore Petroleum  
(Consequential, Transitional and Saving  
Provisions and Model Clauses) Regulations 2018

PART 1

General

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Scotland Act 2016 and Onshore Petroleum (Consequential, Transitional and Saving Provisions and Model Clauses) Regulations 2018.

(2) These Regulations come into force immediately after section 48 of the Scotland Act 2016.

(3) An amendment or modification made by these Regulations has the same extent as the provision to which it relates.

PART 2

Amendments to secondary legislation

**Hydrocarbons Licensing Directive Regulations 1995**

2.—(1) The Hydrocarbons Licensing Directive Regulations 1995(1) are amended as follows.

(2) After regulation 1, insert—

**“Application**

1A.—(1) Except for regulations 2, 4 and 5(2), these Regulations do not apply in relation to a licence in respect of an area within the Scottish onshore area.

(2) In this regulation, “Scottish onshore area” has the meaning given in section 8A(3) of the Petroleum Act 1998(2).”.

(3) In regulation 5(2), for “invites” substitute “or the Scottish Ministers invite”.

**Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014**

3.—(1) The Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014(3) are amended as follows.

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(1) S.I. 1995/1434, amended by S.I. 2016/912.

(2) 1998 c.17. Section 8A is inserted by section 48(16) of the Scotland Act 2016 from a date to be appointed.

(3) S.I. 2014/1686, amended by S.I. 2016/912 and 2017/855.

(2) After regulation 1, insert—

**“Application**

**1A.—**(1) Except for regulations 1(2) and 2(1A) and Schedules 2A and 3A, these Regulations do not apply in relation to a landward petroleum exploration licence or a petroleum exploration and development licence in respect of an area within the Scottish onshore area.

(2) In this regulation, “Scottish onshore area” has the meaning given in section 8A(3) of the Petroleum Act 1998.”.

(3) In regulation 1(2), for the definition of “landward area” substitute—

““landward area” means an area of Great Britain that is within the baselines established by any Order in Council under section 1(1)(b) of the Territorial Sea Act 1987 (extension of territorial sea)**(4)**.”.

(4) After regulation 2(1), insert—

“(1A) For the purposes of section 4(1B) of the Petroleum Act 1998—

- (a) the model clauses prescribed for petroleum exploration and development licences are those set out in Schedule 2A; and
- (b) the model clauses prescribed for landward petroleum exploration licences are those set out in Schedule 3A.”

(5) Omit Schedule 1.

(6) After Schedule 2, insert Schedule 2A as set out in Schedule 1 to these Regulations.

(7) After Schedule 3, insert Schedule 3A as set out in Schedule 2 to these Regulations.

**Petroleum Licensing (Application) Regulations 2015**

**4.—**(1) The Petroleum Licensing (Application) Regulations 2015**(5)** are amended as follows.

(2) In regulation 2—

(a) for the definition of “landward area” substitute—

““landward area” means an area of Great Britain that is within the baselines established by any Order in Council under section 1(1)(b) of the Territorial Sea Act 1987 (extension of territorial sea);”;

(b) for the definition of “low water line” substitute—

““low water line” means the line so marked on the Ordnance map on a scale of 1:25,000 in the case of maps relating to Great Britain, and 1:50,000 in the case of maps relating to Northern Ireland, in the edition for the areas to which they respectively relate last published prior to the date on which these Regulations are made;”, and

(c) for paragraph (a) in the definition of “seaward area” substitute—

“(a) islands on the seaward side of the baselines around Great Britain established by any Order in Council under section 1(1)(b) of the Territorial Sea Act 1987,”.

(3) At the beginning of regulation 3(1), insert “Subject to paragraph (1A),”.

(4) After regulation 3(1), insert—

(4) 1987 c.49. The existing baselines were established by S.I. 2014/1353.

(5) S.I. 2015/766, amended by S.I. 2016/912 and 2017/855.

“(1A) These Regulations do not apply in relation to a landward petroleum exploration licence or a petroleum exploration and development licence in respect of an area within the Scottish onshore area.

(1B) In this regulation, “Scottish onshore area” has the meaning given in section 8A(3) of the Petroleum Act 1998.”

(5) Omit Schedule 1.

### **Oil and Gas Authority (Fees) Regulations 2016**

5.—(1) The Oil and Gas Authority (Fees) Regulations 2016<sup>(6)</sup> are amended as follows.

(2) After regulation 1, insert—

#### **“Application**

1A.—(1) These Regulations do not apply in relation to a petroleum licence in respect of an area within the Scottish onshore area.

(2) In this regulation, “Scottish onshore area” has the meaning given in section 8A(3) of the Petroleum Act 1998.”.

## **PART 3**

### **Amendments to existing licences, transitional provision and savings**

#### **Interpretation**

6. In this Part, “existing licence” has the meaning given in section 49(5) of the Scotland Act 2016<sup>(7)</sup>.

#### **Amendment to existing licences**

7.—(1) Subject to paragraph (3), any existing licence has effect as if—

- (a) in clauses or parts of clauses corresponding to clause 1(1) of the relevant Schedule, in the definition of “Block”, for the words “London, SW1” there were substituted “Glasgow, G2 8LU”;
- (b) in clauses or parts of clauses corresponding to clauses 4(1)(a) or 5(1) of the relevant Schedule, the words “to payment of those sums hereinafter provided for and” were omitted;
- (c) clauses or parts of clauses corresponding to clauses 9 to 11, 25(1)(e) and (5), 31, 32 or 36(2)(a) of the relevant Schedule were omitted;
- (d) any reference to a clause corresponding to clause 10 of the relevant Schedule were omitted, and
- (e) except in the definition of “the OGA”, references to “the OGA” (including references having effect as such), “the Secretary of State” or “the Minister” were references to “the Scottish Ministers”.

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<sup>(6)</sup> S.I. 2016/904, amended by S.I. 2017/426.

<sup>(7)</sup> 2016 c.11. “Existing licence” is defined in s49(5) as a licence granted, before the commencement of section 47, under section 3 of the Petroleum Act 1998, or section 2 of the Petroleum (Production) Act 1934, in respect of an area all or part of which is within the Scottish onshore area, within the meaning given by Section D2 of Part 2 of Schedule 5 to the Scotland Act 1998.

(2) Any existing licence has effect as if the clauses in Schedule 3 to these Regulations were incorporated in the licence.

(3) Paragraph (1) does not apply to any clause incorporated under paragraph (2).

(4) In this regulation, “the relevant Schedule” means Schedule 6 to the Petroleum Licensing (Exploration and Production) (Seaward and Landward Areas) Regulations 2004<sup>(8)</sup>.

### **Transitional modification of the Hydrocarbons Licensing Directive Regulations 1995**

**8.**—(1) This regulation applies until any legislation made by the Scottish Ministers or Scottish Parliament relating to any matter to which the Hydrocarbons Licensing Directive Regulations 1995 relate comes into force.

(2) In relation to any application for a licence to be determined by the Scottish Ministers or any licence granted by the Scottish Ministers under section 3 of the Petroleum Act 1998<sup>(9)</sup>, the Hydrocarbons Licensing Directive Regulations 1995 have effect as if they had been made by the Scottish Ministers.

(3) In relation to any application for a licence to be determined by the Scottish Ministers or any licence granted by the Scottish Ministers under section 3 of the Petroleum Act 1998, the Hydrocarbons Directive Licensing Regulations 1995 have effect as if—

- (a) regulation 1A as inserted by regulation 2(2) of these Regulations were omitted, and
- (b) with the exception of regulation 5(2), references to “the OGA” were references to “the Scottish Ministers”.

### **Transitional modification of the Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014**

**9.**—(1) This regulation applies until the Scottish Ministers exercise section 4(1)(e) of the Petroleum Act 1998<sup>(10)</sup>.

(2) Subject to paragraph (3), in relation to any licence granted by the Scottish Ministers under section 3 of the Petroleum Act 1998, the 2014 Regulations have effect as if they had been made by the Scottish Ministers.

(3) Paragraph (2) does not apply for the purposes of regulation 2(1A) and Schedules 2A and 3A as inserted by regulation 3(4), (6) and (7) of these Regulations.

(4) In relation to any licence granted by the Scottish Ministers under section 3 of the Petroleum Act 1998, the 2014 Regulations have effect as if—

- (a) regulation 1A as inserted by regulation 3(2) of these Regulations were omitted;
- (b) in Schedule 2—
  - (i) in clause 1(1)—
    - (aa) in the definition of “Block”, for the words “Aberdeen, AB10” there were substituted “Glasgow, G2 8LU, and
    - (bb) the definition of “the OGA” were omitted;

<sup>(8)</sup> [S.I. 2004/352](#), amended by section 77 of, and paragraph 20 of Schedule 3 to, Energy Act 2008 ([c.32](#)), [S.I. 2006/784](#), [S.I. 2009/229](#) and [S.I. 2009/3283](#). Schedule 6 is disapplied by regulation 2(2) of [S.I. 2014/1686](#) in relation to any licence granted on or after the commencement of that instrument.

<sup>(9)</sup> Section 3 is modified by [S.I. 2016/898](#), regulation 2(2). Amendments are also made to section 3 that have not yet entered into force. Section 3 is to be amended by section 48(2) to (4) of the Scotland Act 2016 ([c.11](#)) (on a date to be appointed) and Part 3 of [S.I. 2016/898](#), regulation 3(2).

<sup>(10)</sup> Section 8A(2), inserted by s48(16) Scotland Act 2016 (on a date to be appointed), provides that in relation to the Scottish onshore area, the Scottish Ministers are the “appropriate Minister” for purposes of s4(1) (as amended by s48(6) on a date to be appointed).

- (ii) in clauses 5(1)(a) and 7(1), the words “to payment of those sums hereinafter provided for and” were omitted;
- (iii) in clause 6(2), the words “to payment of the sums specified in Schedule 2 and” were omitted;
- (iv) in clause 20(11), the reference to “OGA” were a reference to “Scottish Ministers or the Secretary of State”;
- (v) the following were omitted—
  - (aa) clauses 12 to 14;
  - (bb) clause 30(1)(e) and (5);
  - (cc) in clause 35, the reference to clause 13
  - (dd) clauses 36 and 37;
  - (ee) clause 41(2)(a), and
  - (ff) clause 44(4), and
- (vi) any other references to “the OGA” were references to “the Scottish Ministers”, and
- (c) in Schedule 3—
  - (i) in clause 1(1), the definition of “the OGA” were omitted;
  - (ii) in clause 2(1), for the words “payments provided for in clause 7” there were substituted “the sums payable to the Oil and Gas Authority”;
  - (iii) clauses 7 and 18(2)(a) were omitted;
  - (iv) in clause 20(2)—
    - (aa) for “arbitrator” there were substituted “arbiter”, and
    - (bb) for “the Lord Chief Justice of England” there were substituted “the Lord President of the Court of Session”, and
  - (v) clause 20(3) were omitted, and
  - (vi) any other references to “the OGA” were references to “the Scottish Ministers”.

(5) In relation to any review under regulation 3 of the 2014 Regulations, regulation 3(1)(a) has effect as if, after “Regulations” there were inserted “, except in so far as they apply to any function exercised by the Scottish Ministers”.

(6) In this regulation, the “2014 Regulations” means the Petroleum Licensing (Exploration and Production) (Landward Areas) Regulations 2014.

### **Transitional modification of the Petroleum Licensing (Applications) Regulations 2015**

**10.**—(1) This regulation applies until the Scottish Ministers exercise section 4(1)(a), (b) or (d) of the Petroleum Act 1998.

(2) In relation to any application for a licence to be determined by the Scottish Ministers or any licence granted by the Scottish Ministers under section 3 of the Petroleum Act 1998, the 2015 Regulations have effect as if they had been made by the Scottish Ministers.

(3) In relation to any application for a licence to be determined by the Scottish Ministers or any licence granted by the Scottish Ministers under section 3 of the Petroleum Act 1998, the 2015 Regulations have effect as if—

- (a) in regulation 2—
  - (i) in the definition of “model clauses” after the words “section 4(1)(e)” there were inserted “or section 4(1B)”, and

- (ii) the definition of “the OGA” were omitted, and
- (iii) in the definition of “seaward petroleum exploration licence”, the words after “seaward area” were omitted;
- (b) regulation 3(1A) and (1B) as inserted by regulation 4(4) of these Regulations were omitted;
- (c) for regulation 4(2) there were substituted—
  - “(2) Applications must be—
    - (a) made in writing, and
    - (b) accompanied by such evidence and particulars or documents in support as are specified in these Regulations in respect of the licence being applied for, and are appropriate to that application.”;
  - (d) any other references to “the OGA” were references to “the Scottish Ministers”.

(4) In relation to any review under regulation 9 of the 2015 Regulations, regulation 9(1)(a) has effect as if, after “Regulations” there were inserted “, except in so far as they apply to any function exercised by the Scottish Ministers”.

(5) In this regulation, the “2015 Regulations” means the Petroleum Licensing (Applications) Regulations 2015.

### Savings

**11.**—(1) Anything which, at the commencement of these Regulations, is in the process of being done by or in relation to the OGA(**11**) in connection with a transferred function may be continued by or in relation to the Scottish Ministers.

(2) Anything done (or having effect as if done) by or in relation to the OGA before the commencement of these Regulations in connection with a transferred function has effect, so far as is necessary for continuing its effect after the commencement of these Regulations, as if done by or in relation to the Scottish Ministers.

(3) Any instrument (except an existing licence, an Act or subordinate legislation) made, granted or given before the commencement of these Regulations has effect, so far as is appropriate in connection with a transferred function, as if references to the OGA (and references which are to be read as references to the OGA) were or included references to the Scottish Ministers.

(4) These Regulations do not affect the validity of anything done (or having effect as if done) by or in relation to the OGA in connection with a transferred function before the commencement of these Regulations.

(5) In this regulation—

“instrument” includes awards, authorisations, consents, approvals, judgments, decrees and other documents granted or given in connection with a transferred function but does not include any enactment;

“OGA” means the Oil and Gas Authority; and

“transferred function” means a function transferred to the Scottish Ministers in respect of the Scottish onshore area as a result of section 48 of the Scotland Act 2016(**12**).

(11) The “OGA” is defined as the Oil and Gas Authority in section 1(4) of the Energy Act 2016 (c.20).

(12) 2016 c.11.

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